

75-11848/B

11 MAR 1976

Honorable Bella S. Abzug, Chairwoman
Subcommittee on Government Information
and Individual Rights
Committee on Government Operations
House of Representatives
Washington, D. C. 20515

Dear Madam Chairwoman:

This is in response to your letter requesting information on Agency procedures related to the classification of official information pursuant to Executive Order (E. O.) 11652 as well as aspects of the protection of Agency intelligence sources and methods under the National Security Act of 1947 and the above mentioned Executive Order. Enclosed herewith are the questions set forth in your letter followed by the answers.

As you know, the President has recently issued E. O. 11905. As a result, Agency regulations dealing with the classification of information and the protection of sources and methods will be reviewed and may be revised. Therefore, the enclosed information, while it describes the current state of Agency procedures in this area, may change within the near future. Additionally, there are several references in this letter to Agency regulation [redacted] which implements the various provisions of orders and directives on this subject. Since a copy of this regulation has previously been forwarded to your Subcommittee, reference is made thereto without including the regulation as an enclosure.

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Sincerely,

/s/ George Bush

George Bush
Director

Enclosure

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Response to Questions Posed by the Government Information
and Individual Rights Subcommittee of the
Committee of Government Operations
of the House of Representatives

QUESTION:

- "1) Implementation of Policy. Please identify each office in your agency that is functionally responsible for developing and publishing regulations in implementation of policy in Executive Order 11652 for classifying and declassifying official information."

ANSWER: The Deputy Director for Administration, in consultation with and upon the legal advice of the Office of General Counsel, is responsible for promulgating all Agency regulations. The Deputy Director for Administration, in drafting regulations implementing the provisions of E. O. 11652, coordinates those regulations with all interested components of the Agency. The Deputy Director for Administration issues such regulations unless the General Counsel advises that such regulation must be signed by the Director of Central Intelligence.

QUESTION:

- * "2) Criteria for Official Information. What is the criteria established by your agency for its use in determining whether an item of information is 'official information' and subject to possible classification under Executive Order 11652? Please include comment especially applicable to intelligence sources and methods."

ANSWER: Agency regulation [] states that "all information, classified or unclassified, received, compiled, or created by the CIA (except personal copies of unclassified personnel papers) is official data and the property of the U. S. Government."

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QUESTION:

- "3) Criteria for Classifying. Please state the criteria established by your agency for its use in determining:

- a) whether an item of official information other than intelligence sources and methods, requires protection under Executive Order 11652 against unauthorized disclosure in the interest of the national defense of the United States?"

ANSWER: Agency regulation [] Part I, paragraph d, sets forth the criteria used to determine whether official information requires protection under E. O. 11652.

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- "b) whether an item of official information revealing an intelligence source requires protection under 50 U.S.C. 403(d)(3) and Executive Order 11652 against unauthorized disclosure in the interest of the national defense of the United States." and

- "c) whether an item of official information revealing an intelligence method requires protection under 50 U.S.C. 403(d)(3) and Executive Order 11652 against unauthorized disclosure in the interest of the national defense of the United States."

ANSWER: Official information bearing on intelligence sources and methods which require protection inherently involves a mosaic of isolated and often seemingly unrelated bits and pieces of information which if improperly disclosed could endanger or reveal such sources and methods. The main criterion involves the application of experienced judgment to all aspects of the intelligence process in order to insure that any disclosure will not lead to counteraction which would jeopardize the continued existence and productivity of an intelligence source or method. In short, the criteria used to determine whether an item of information reveals an intelligence source or a method are not easily defined nor are they static. General guidelines have been set out which an official, in determining whether an item of information revealing an intelligence source or a method needs to be protected, should follow. Such guidelines are embodied in Agency regulation [] the National Security Council Directive on Classification, Downgrading, Declassification and Safeguarding of National Security Information of May 17, 1972 (Attachment A), and Director of Central Intelligence Directive No. 1/7 effective 5 October 1975 (Attachment B).

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QUESTION:

- "4) National Defense and Foreign Relations. Section 1 of Executive Order 11652 requires that official information be classified for protection against unauthorized disclosure in the interest of (i) the national defense or (ii) foreign relations of the United States. This Presidential directive shows that 'national defense' and 'foreign relations' are mutually exclusive alternatives for deciding whether to classify information."

COMMENT: In regard to the last sentence of the above paragraph, it should be pointed out that section 1 of E. O. 11652 states in part as follows: "official information or material which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States (hereinafter collectively termed 'national security')...." Since both national defense and foreign relations categories are collectively termed national security it would seem that the intent of E. O. 11652 would not lead to the conclusion that national defense or foreign relations are mutually exclusive alternatives for deciding whether to classify information. In other words, "national security" includes both categories.

- "a) Are there circumstances in which the unauthorized disclosure of information regarding foreign relations of the United States, such as the disruption of foreign relations, could reasonably be expected to cause damage to the national defense?"

ANSWER: Yes. As an example, disclosure of certain information could cause a strain or a break in relations with a foreign country with which the U. S. has a mutual defense agreement which in turn could result in the denial to the U. S. by that country of the use of military bases in that country thus possibly damaging our national defense.

- "b) Could the Central Intelligence Agency perform its functions effectively if your authority to classify information for secrecy should be limited to information requiring protection in the interest of national defense, as was the case under Executive Order 10501?"

ANSWER: Whether the Agency could perform its functions effectively would depend on the interpretation that would

be given to the term "national defense" if adopted in the environment of today's world. Currently, this Agency is charged with the responsibility to produce intelligence on a wide range of "foreign relations" type matters for the use of our policy-makers. Unless such information when necessary could be protected from unauthorized disclosure then the Agency could not perform such functions effectively. It seems clear from a reading of E. O. 10501 that the term "national defense" as used therein included some of the above types of "foreign relations" matters. However, I feel that if the decision were made to replace E. O. 11652 with its predecessor E. O. 10501, then the term "national defense" would need careful and ample definition.

QUESTION:

"5) Authority to Classify. Please state:

- a) The number of senior principal deputies and assistants to the Director who currently exercise authority under section 2(A)(2) of Executive Order 11652 to classify information originally as Top Secret."

ANSWER: As of December 31, 1975, there were eleven senior principal deputies and assistants to the Director who exercised such authority.

- "b) The number of individuals, other than those in major elements of the agency as referred to in c) below, who exercise authority under section 2(B)(2) and (C) of Executive Order 11652 to classify information originally as:

- (1) Secret
- (2) Confidential"

ANSWER: There are no individuals, other than those in major elements of the Agency as referred to in question 5) c), who exercise authority to classify information Secret or Confidential.

"c) The identity of each major element of the agency, as that term is used in section 2(A)(3) of Executive Order 11652, and the number of individuals, if any, in each such major element who currently exercise authority under the Executive Order to classify information originally as:

- (1) Top Secret
- (2) Secret
- (3) Confidential"

ANSWER: The major elements of the Agency are:

Office of the Director
Office of General Counsel
Office of Legislative Counsel
Office of Inspector General
Intelligence Community Staff
National Intelligence Officers
Office of the Comptroller
Office of the Deputy Director for Intelligence
Office of the Deputy Director for Administration
Office of the Deputy Director for Operations
Office of the Deputy Director for Science
and Technology

Within the above listed major elements, there are persons authorized to classify information Top Secret, persons authorized to classify information Secret, persons authorized to classify information Confidential. The above numbers do not include the Director or his senior principal deputies and assistants who head each of the major elements listed above. For security reasons, it is felt that the above numbers should not be broken down further in an unclassified document.

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QUESTION:

"6) Effect of Limitation on Authority to Classify. According to section 2 of Executive Order 11652, and section I.A. of the National Security Council Directive of May 17, 1972, no person may exercise classification authority except those officials who are designated in the order or are specified in writing

pursuant to the order. Section I.B. of the N.S.C. Directive makes clear the fact that whenever a person incorporates into a document an item of information that is already classified, the previously assigned classification shall be reflected on the newly created document together with the identity of the classifier. Please advise whether the agency:

- a) Permits any person to exercise classification authority other than the Director and those officials who are specifically designated in writing pursuant to section 2, Executive Order 11652."

ANSWER: Agency regulations do not permit Agency officials to classify information unless authorized pursuant to the provisions of Agency regulation [] Part II a. Part II b of that regulation directs that in the event a person does not have authority to properly classify information, that person shall forward such information to someone who has such authority.

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- "b) Considers this restriction on authority to assign security classifications as being satisfactory for performance of agency functions and responsibility."

ANSWER: This Agency does not consider such restriction on authority satisfactory for the performance of Agency functions and responsibilities.

QUESTION:

"7) Classification of Projects.

- a) Does the agency permit officials with classifying authority to assign a classification to projects and programs in their entirety, with no distinction between classified and non-classified items, and, if so:
 - 1) How many officials exercise such authority?
 - 2) What are the instructions that apply to proposals for (a) assigning such classifications, and (b) downgrading and declassifying information regarding such projects and programs?

- 3) How is the assigned classification communicated to individuals whose duties require that they have knowledge of it and who are expected to safeguard the items of information involved?"

ANSWER: Agency regulation [] Part II b provides that "a determination shall be made with respect to each document originated by CIA as to which security classification category (Top Secret, Secret or Confidential) if any, is applicable to the document." Agency regulations do not permit the classification of projects and programs in their entirety without distinction between classifiable and non-classifiable information.

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QUESTION:

- "8) Compilations of Non-Classified Information. Does the agency permit the placement of a security classification marking on compilations of items of non-classified information, such as a list of non-classified documents or a reproduction of non-classified documents on microfilm, and, if so, what are the instructions for:

- a) Assigning such classification?
- b) Cancelling an assigned classification?"

ANSWER: In general, Agency regulations do not permit the classification of compilations of items of non-classified information. However, as set out in [] Part II b (2), "Intelligence and intelligence sources and methods inherently involve a mosaic of information. Isolated and apparently unrelated items of information could endanger or reveal intelligence sources and methods." In the event a compilation of non-classified items, which, individually, would not be classifiable, was determined as revealing classifiable intelligence or intelligence sources and methods when joined in a compilation, then the classification of such a compilation would be permissible under Agency regulations and applicable statutes.

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QUESTION:

- "9) Special Handling Procedures. Please furnish us:

- a) A list of every marking and designator other than Top Secret, Secret and Confidential that the agency uses under section 9, Executive Order 11652, to indicate special access limitations and special handling requirements for classified information, and a statement of the meaning and use of each such marking and indicator."

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ANSWER: Certain markings and designators used by the Agency to indicate special access limitations and special handling requirements for classified information are listed in [] and Attachments A and B hereto. Such documents also contain a statement of the meaning and use of each such marking and indicator. In addition to the above mentioned markings and designators, this Agency utilizes additional markings/designators to indicate the need for special handling which are in furtherance of the "need-to-know" principle described in E. O. 11652 and Attachments A and B. However, a listing of such special markings/designators together with a statement of the meaning of each such marking/designator could not be provided in unclassified form without serious risk to the security of certain matters the compromise of which could endanger sensitive sources and methods.

- "b) The number of (1) Members of Congress and (2) the number of Congressional staff employees who are designated to have access to agency information bearing special access restrictions."

ANSWER: (1) Members of Congress and/or Congressional committees and their staffs are given access to Agency information on matters within their jurisdiction as described in the rules of each House consistent with the responsibility of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure. (2) As of 5 January 1976, 78 Congressional staff employees had been cleared for access to Agency information bearing special access restrictions on a need-to-know basis.

QUESTION:

"10) Accountability Records. Section 6(E) of Executive Order 11652 requires that appropriate accountability records for classified information shall be established and maintained.

a) Please describe the system or systems operated by the agency to account for documents and other items classified:

- (1) Top Secret
- (2) Secret
- (3) Confidential"

ANSWER: (1) The Agency's procedures for accounting for Top Secret documents are based on E. O. 11652, the National Security Council implementation instructions (Attachment A), Intelligence Community directives, and Agency regulation

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"b) Does the agency require that each completed Top Secret, Secret and Confidential document be recorded on the designated accountability record, including documents held by agency contractors, and, if so, is action taken on a continuing basis to assure adherence to the requirement?"

ANSWER: The Agency requires that Top Secret documents be recorded in the designated accountability record regardless of whether they are held by the Agency or by a contractor. Secret and Confidential records held by contractors are recorded on accountability records which are inspected approximately annually. There is no action taken on a

continuing basis to assure adherence for Secret and Confidential documents held by the Agency. We rely on the integrity of our employees and contractors and on normal supervision of such persons for adherence to requirements.

- "c) Does the requirement that accountability records be maintained for classified documents serve to make them quickly available for review when access to them is requested under the Freedom of Information Act?"

ANSWER: The accountability system for the control of Top Secret documents serves to make any document classified Top Secret readily available for review once such document is identified as containing the subject matter of a Freedom of Information request. However, most Freedom of Information requests are couched in terms which do not identify a specific or known document, for which the accountability system for control would be helpful. The requests usually are broad and in all-inclusive terms which requires considerable research before a document can be identified. The new centralized Top Secret control system will include a "quick listing" based on key words in document titles, which is expected to be of significant help in expediting the identification of documents which may have a bearing on a particular Freedom of Information request.

QUESTION:

- "11) Systematic Review for Declassification. 'Section 6(G) of Executive Order 11652 requires that classified information be reviewed on a systematic basis for declassification at the earliest practicable date.
- a) Please describe the system or systems operated by the agency for reviewing classified documents and other classified items to determine whether the classification may be cancelled. (This request applies to review of individual items, not to review of regulations or guides for assigning classifications.)"

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ANSWER: Part III of Agency regulation [] which implements E. O. 11652, contains language similar to that of section 6(G) of the Order. It states that "...Agency components, to the extent practicable, shall review documents on a systematic basis and declassify and downgrade them, as warranted." In connection therewith, this Agency has the following active declassification programs:

(1) Documents of Predecessor Agencies.

Pursuant to section III A of Attachment A and section 5(E) of E. O. 11652, the Agency in collaboration with the Records Declassification Division of the National Archives, is reviewing 30-year-old materials originated by CIA's predecessor agencies (the Coordinator of Information and the Office of Strategic Services). Significant progress has been made in completing the review of records held by the National Archives and Presidential libraries, and our efforts are now being concentrated on documents still in the custody of CIA. Some declassified record series have already been turned over to the National Archives for accessioning, e.g., OSS motion picture films, OSS maps, and captured German military-geographic studies.

(2) Freedom of Information/Privacy Act Requests.

As a result of the recent amendments to the Freedom of Information Act and the Privacy Act, this Agency is devoting a major effort to the review of Agency documents to determine which documents requested under these Acts have been or can be declassified. From January 1, 1975 to November 20, 1975 this Agency had received a total of 6,793 such requests. For a further discussion of the disposition of these requests, please see the letter from former Director Colby to you dated 20 December 1975. Materials declassified, in whole or in part, as the result of FOIA and Privacy requests are provided on a continuing basis to a commercial firm which indexes and microfilms the documents and makes their products available to the public on a commercial basis. (Other federal agencies are also involved in this program.)

(3) Mandatory Declassification Review Requests.

As a result of the provisions of E. O. 11652 as implemented by Part III a (3) of Agency regulation this Agency frequently receives requests for the mandatory review of certain Agency documents. This Agency receives on the average 230 such requests per year.

(4) Other.

In addition to the above mentioned programs, this Agency reviews certain specific documents or series of documents on an ad hoc basis as a result of particular requests. For example, a very large number of documents were reviewed for declassification as a result of the requests for documents levied by the Rockefeller "Commission on CIA Activities Within the United States," as well as the Senate and House Select Committees on Intelligence. Currently, the Agency is also reviewing all Agency documents provided the Warren Commission for the purpose of declassifying and releasing for public access as many of those documents as possible.

With respect to the above programs, the Agency publishes an Annual Declassification List, which includes citations to all documents which have become declassified through the Advanced Declassification Schedule or the General Declassification Schedule. Copies of this report are provided the National Archivist and documents listed therein become available to members of the public through that office.

- "b) In practice, is each classified document held by the agency reviewed specifically for declassification on any established schedule, such as each six months, and, if not, would a requirement for such a review be practicable?"

ANSWER: Except for the programs described above, this Agency does not have a program aimed at the review of each individual classified Agency document for possible declassification on an established schedule and a requirement for a periodic review, such as every six months, would not be practical. Consideration has been given to establishing a

systematic program for reviewing all classified documents at specified periodic intervals. However, in view of the large volume of classified matter originated by the CIA, it is obvious that even that type of program would require a huge manpower commitment, thereby adversely affecting programs of higher priority. Moreover, the inherent sensitivity of intelligence sources and methods makes it questionable whether a program for the systematic classification review of all documents would result in a significant percentage of them being declassified, or even downgraded. We do plan to continue our consideration of the feasibility of such a program or, as an alternative, changes in the format and content of our intelligence reports which would enable us to make more of them subject to the General Declassification Schedule.

- "c) Is each classified document held by agency contractors reviewed specifically for declassification (1) on any established schedule, and (2) at completion of the contract which required use of the document?"

ANSWER: Classified documents held by Agency contractors are copies of documents held by the Agency. A review is made at the completion of each contract which may result in their being declassified or being returned to the Agency, but usually results in their being destroyed. There is no established schedule for reviewing these documents for declassification.

- "d) Is each document with a classification notation reviewed specifically for declassification at the time it is processed out of an office for retirement, and if not, why cannot such a review be made?"

ANSWER: Due to the enormous amount of classified material produced by this Agency, no program exists which would provide for a classification review of each classified document as it is processed out for retirement. Such a program would call for such an extremely large manpower commitment as to be almost physically impossible and would adversely affect Agency programs of higher priority. Furthermore, it is submitted that such an expenditure of public funds should

be geared to meet specific requirements clearly in the public interest. The interest must prompt the review.

- "e) Please advise us of any special instructions on reviewing intelligence sources and intelligence methods for declassification, including the authorization for declassification."

ANSWER: This Agency has not issued any special instructions for reviewing information bearing on intelligence sources and methods for declassification. However, as a member of the United States Intelligence Board Security Committee, the Agency helped prepare a proposed set of guidelines entitled Interim Intelligence Community Guidelines for Declassification or Extended Classification of Information Concerning Intelligence Sources and Methods. This proposal is presently under review by the Interagency Classification Review Committee. Upon concurrence, it will be submitted to the appropriate office for approval, promulgation and use by this Agency as well as others.

QUESTION:

- "12) Exemption of Classified Information from General Declassification Schedule. Please state, to the extent practicable, the percentage of agency documents in each classification category that are designated as being exempt from the general declassification schedule in section 5(A), Executive Order 11652."

ANSWER: As noted previously, the Director of Central Intelligence is charged by statute to protect intelligence sources and methods from unauthorized disclosure. Inherent in substantive information are clues to the means (source or method) by which it was obtained. Agency documents containing such information must normally be protected beyond the automatic declassification period to insure the continued efficacy of these sources and methods. Therefore, most Agency documents must be exempted from automatic declassification. It is not practicable to estimate the percentage of all Agency documents, whether by category or overall, that are so exempted. It can be said, however, that a large majority of Agency documents are so exempted.

QUESTION:

"13) Classified Contracts. Would you please state:

- a) Approximately how many of the agency's prime contracts currently in force involve disclosure to the contractor of information classified -

- (1) Top Secret
- (2) Secret
- (3) Confidential"

ANSWER: Agency contracts currently in force do not readily fall into the categories of Top Secret, Secret, and Confidential since many contracts call for disclosure to the contractor of a mixture of information bearing different degrees of classification. Given this, it is our best estimate that of the total number of Agency contracts, seven percent involve the disclosure to the contractors of information classified Top Secret, twelve percent involve Secret information, and forty-seven percent involve disclosure of information classified Confidential.

- "b) Approximately how many agency projects that are currently under contract awarded by some other agency involve disclosure to the contractor of information classified -

- (1) Top Secret
- (2) Secret
- (3) Confidential"

ANSWER: Information relative to the number of Agency projects currently under a contract awarded by some other federal agency which involve the disclosure to the contractor of classified information is not part of any of the Agency's automated systems and an answer to this question would require an immense amount of labor in manual research. Such a search would be further complicated by the fact that in many cases the Agency simply transfers funds to another agency which may do the work in-house, may contract out the work, or may utilize both.

- "c) How many different commercial firms and other non-Federal entities are involved in performance of the agency's classified contracts."

ANSWER: There are commercial firms and other non-federal entities which participate in Agency contracts involving classified information.

QUESTION:

- "14) Non-Classified Intelligence Sources and Methods.
If an item of information revealing an intelligence source or an intelligence method does not qualify for a classification of Confidential or higher under Executive Order 11652, do you consider that you have responsibility under 50 U.S.C. 403(d)(3) for protecting such information from unauthorized disclosure, and if so:

- a) What is the basis for that belief?
- b) What criteria apply in determining the need for protection?
- c) What protection system is used?
- d) What would constitute an unauthorized disclosure?"

ANSWER: The responsibility placed upon the Director of Central Intelligence by the National Security Act of 1947 to protect intelligence sources and methods, and the requirements and authorities of E. O. 11652 to protect national security information and material levied on specified U. S. Government agencies and departments, are separate authorities and obligations. While some information which would reveal intelligence sources and methods would also clearly fall within the definitions of classifiable information set forth in E. O. 11652, not all such information is so readily categorized. In other words, information which would reveal intelligence sources and methods may require protection under both E. O. 11652 and the National Security Act of 1947; however, not all intelligence sources and methods information may necessarily meet the classification criteria set forth in the Executive Order. Since these are two separate and distinct authorities and obligations, a discussion of criteria used to protect one type of information will not necessarily produce an understanding of the criteria used to determine classifiability of the other.

While the criteria used to determine whether information is classifiable under E. O. 11652 is explicit in that Order, there are no criteria established in the National Security Act of 1947 to determine when and how information regarding sources and methods should be protected. This is left to the discretion of the Director of Central Intelligence. In fact, the Director of Central Intelligence uses many different means to protect information which would reveal sources and methods depending upon the sensitivity involved. These means range from a utilization of the provisions of paragraphs VI A (1) and (2) of Attachment A concerning the determination of trustworthiness (security clearance) and the need-to-know of the recipient of information; to physical control of information by limiting the access thereto by restricting access to the buildings in which such information is stored, by locking such information in safes and vaults, by employing human guards to control access and by other physical means. Another means adopted by the Director of Central Intelligence to protect information bearing on intelligence sources and methods is to apply the classification system set out in E. O. 11652 to such information. In this regard, see Agency regulation [redacted] Parts I b, II b, and II B (2) which set forth inter alia that "The responsibility of the Director to protect intelligence sources and methods, as prescribed by the National Security Act of 1947, also will be implemented by CIA actions under the Order" [E. O. 11652]; that "The classification decision shall be based upon the definitions of security information (Part I, Section d) and the principles prescribed in the following paragraphs;" and that "Intelligence and intelligence sources and methods inherently involve a mosaic of information. Isolated and apparently unrelated items of information therefore could endanger or reveal intelligence sources and methods." Both civil and criminal legal remedies are available for certain unauthorized disclosures of classified information. Any disclosure of information which would reveal intelligence sources and methods, when such disclosure is not made pursuant to Agency regulations or authorizations, would be unauthorized in terms of this question.

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QUESTION:

"15) Referral of Violations to Department of Justice. Please state

the number of cases arising in the agency during the preceding two-year period under section 13, Executive Order 11652, involving:

- a) An officer or employee being disciplined for the unauthorized disclosure of classified information."

ANSWER: With the exception of administrative penalties for security violations, e.g. leaving a safe open, or leaving a classified document exposed, in which an actual unauthorized disclosure could not be ascertained, records of this Agency do not reveal that any officer or employee has been disciplined for the unauthorized disclosure of classified information.

- "b) The referral to the Department of Justice of a possible violation of criminal statutes regarding unauthorized disclosure of information."

ANSWER: Three cases have been brought to the attention of the Department of Justice in which this Agency believes there was a possible violation of the criminal statutes regarding the unauthorized disclosure of information.

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Chapter III--Presidential Documents, etc.

DIRECTIVE OF MAY 17, 1972 *

National Security Council
Directive Governing the
Classification, Downgrading,
Declassification and Safeguarding
of National Security Information

The President has directed that Executive Order 11652, "Classification and Declassification of National Security Information and Material," approved March 8, 1972 (37 F.R. 5209, March 10, 1972) be implemented in accordance with the following:

I. AUTHORITY TO CLASSIFY

A. *Personal and Non-delegable.* Classification authority may be exercised only by those officials who are designated by, or in writing pursuant to, Section 2 of Executive Order 11652 (hereinafter the "Order"). Such officials may classify information or material only at the level authorized or below. This authority vests only to the official designated under the Order, and may not be delegated.

B. *Observance of Classification.* Whenever information or material classified by an official designated under A above is incorporated in another document or other material by any person other than the classifier, the previously assigned security classification category shall be reflected thereon together with the identity of the classifier.

C. *Identification of Classifier.* The person at the highest level authorizing the classification must be identified on the face of the information or material classified, unless the identity of such person might disclose sensitive intelligence information. In the latter instance the Department shall establish some other record by which the classifier can readily be identified.

D. *Record Requirement.* Each Department listed in Section 2(A) of the Order shall maintain a listing by name of the officials who have been designated in writing to have Top Secret classification authority.

Title 3A--The President, Appendix

Each Department listed in Section 2 (A) and (B) of the Order shall also maintain separate listings by name of the persons designated in writing to have Secret authority and persons designated in writing to have Confidential authority. In cases where listing of the names of officials having classification authority might disclose sensitive intelligence information, the Department shall establish some other record by which such officials can readily be identified. The foregoing listings and records shall be compiled beginning July 1, 1972 and updated at least on a quarterly basis.

E. *Resolution of Doubts.* If the classifier has any substantial doubt as to which security classification category is appropriate, or as to whether the material should be classified at all, he should designate the less restrictive treatment.

II DOWNGRADING AND DECLASSIFICATION

A. *General Declassification Schedule and Exemptions.* Classified information and material shall be declassified as soon as there are no longer any grounds for continued classification within the classification category definitions set forth in Section 1 of the Order. At the time of origination the classifier shall, whenever possible, clearly mark on the information or material a specific date or event upon which downgrading or declassification shall occur. Such dates or events shall be as early as is permissible without causing damage to the national security as defined in Section 1 of the Order. Whenever earlier dates or events cannot be determined, the General Declassification Schedule set forth in Section 5(A) of the Order shall apply. If the information or material is exempted under Section 5(B) of the Order from the General Declassification Schedule, the classifier shall clearly mark the material to show that it is exempt and indicate the applicable exemption category. Unless impossible, the exempted information or material shall be assigned and clearly marked by the classifier with a specific date or event upon which declassification shall occur. Downgrading and declassification dates or events established in accordance with the foregoing, whether scheduled or non-scheduled, shall to the extent possible be carried forward and applied whenever the classified information or material is incorporated in other documents or material.

B. *Extracts and Compilations.* When classified information or material from more than one source is incorporated into a new document or

Chapter III--Presidential Documents, etc.

other material, the document or other material shall be classified, downgraded or declassified in accordance with the provisions of the Order and Directives thereunder applicable to the information requiring the greatest protection.

C. Material Not Officially Transferred. When a Department holding classified information or material under the circumstances described in Section 3(D) of the Order notifies another Department of its intention to downgrade or declassify, it shall allow the notified Department 30 days in which to express its objections before taking action.

D. Declassification of Material 30 Years Old. The head of each Department shall assign experienced personnel to assist the Archivist of the United States in the exercise of his responsibility under Section 5(E) of the Order to systematically review for declassification all materials classified before June 1, 1972 and more than 30 years old. Such personnel will: (1) provide guidance and assistance to archival employees in identifying and separating those materials originated in their Departments which are deemed to require continued classification; and (2) develop a list for submission to the head of the Department which identifies the materials so separated, with recommendations concerning continued classification. The head of the originating Department will then make the determination required under Section 5(E) of the Order and cause a list to be created which identifies the documentation included in the determination, indicates the reason for continued classification and specifies the date on which such material shall be declassified.

E. Notification of Expedited Downgrading or Declassification. When classified information or material is downgraded or declassified in a manner other than originally specified, whether scheduled or exempted, the classifier shall, to the extent practicable, promptly notify all addressees to whom the information or material was originally officially transmitted. In turn, the addressees shall notify any other known recipient of the classified information or material.

III REVIEW OF CLASSIFIED MATERIAL FOR DECLASSIFICATION
PURPOSES

A. Systematic Reviews. All information and material classified after the effective date of the Order and determined in accordance with Chapter 21, 44 U.S.C. (82 Stat. 1287) to be of sufficient historical or other value to warrant preservation shall be systematically reviewed on a timely

Title 3A--The President, Appendix

basis by each Department for the purpose of making such information and material publicly available in accordance with the determination regarding declassification made by the classifier under Section 5 of the Order. During each calendar year each Department shall segregate to the maximum extent possible all such information and material warranting preservation and becoming declassified at or prior to the end of such year. Promptly after the end of such year the Department responsible, or the Archives of the United States if transferred thereto, shall make the declassified information and material available to the public to the extent permitted by law.

B. Review for Declassification of Classified Material Over 10 Years Old. Each Department shall designate in its implementing regulations an office to which members of the public or Departments may direct requests for mandatory review for declassification under Section 5 (C) and (D) of the Order. This office shall in turn assign the request to the appropriate office for action. In addition, this office or the office which has been assigned action shall immediately acknowledge receipt of the request in writing. If the request requires the rendering of services for which fair and equitable fees should be charged pursuant to Title 5 of the Independent Offices Appropriations Act, 1952, 65 Stat. 290, 31 U.S.C. 483a the requester shall be so notified. The office which has been assigned action shall thereafter make a determination within 30 days of receipt or shall explain the reasons why further time is necessary. If at the end of 60 days from receipt of the request for review no determination has been made, the requester may apply to the Departmental Committee established by Section 7(B) of the Order for a determination. Should the office assigned action on a request for review determine that under the criteria set forth in Section 5(B) of the Order continued classification is required, the requester shall promptly be notified, and whenever possible, provided with a brief statement as to why the requested information or material cannot be declassified. The requester may appeal any such determination to the Departmental Committee and the notice of determination shall advise him of this right.

C. Departmental Committee Review for Declassification. The Departmental Committee shall establish procedures to review and act within 30 days upon all applications and appeals regarding requests for declassification. The Department head, acting through the Departmental Committee shall be authorized to over-rule previous determinations in whole or in part when, in its judgment, continued protection is no longer re-

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quired. If the Departmental Committee determines that continued classification is required under the criteria of Section 5(B) of the Order it shall promptly so notify the requester and advise him that he may appeal the denial to the Interagency Classification Review Committee.

D. Review of Classified Material Over 30 Years Old. A request by a member of the public or by a Department under Section 5 (C) or (D) of the Order to review for declassification documents more than 30 years old shall be referred directly to the Archivist of the United States, and he shall have the requested documents reviewed for declassification in accordance with Part II.D. hereof. If the information or material requested has not been transferred to the General Services Administration for accession into the Archives, the Archivist shall, together with the head of the Department having custody, have the requested documents reviewed for declassification. Classification shall be continued in either case only where the head of the Department concerned makes at that time the personal determination required by Section 5(E)(1) of the Order. The Archivist shall promptly notify the requester of such determination and of his right to appeal the denial to the Interagency Classification Review Committee.

E. Burden of Proof for Administrative Determinations. For purposes of administrative determinations under B., C., or D. above, the burden of proof is on the originating Department to show that continued classification is warranted within the terms of the Order.

F. Availability of Declassified Material. Upon a determination under B., C., or D. above that the requested material no longer warrants classification it shall be declassified and made promptly available to the requester, if not otherwise exempt from disclosure under Section 552(b) of Title 5 U.S.C. (Freedom of Information Act) or other provision of law.

G. Classification Review Requests. As required by Section 5(C) of the Order, a request for classification review must describe the document with sufficient particularity to enable the Department to identify it and obtain it with a reasonable amount of effort. Whenever a request is deficient in its description of the record sought, the requester should be asked to provide additional identifying information whenever possible. Before denying a request on the ground that it is unduly burdensome, the requester should be asked to limit his request to records that are reasonably obtainable. If none-the-less the requester does not describe the

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records sought with sufficient particularity, or the record requested cannot be obtained with a reasonable amount of effort, the requester shall be notified of the reasons why no action will be taken and of his right to appeal such decision.

IV MARKING REQUIREMENTS

A. *When Document or Other Material is Prepared.* At the time of origination, each document or other material containing classified information shall be marked with its assigned security classification and whether it is subject to or exempt from the General Declassification Schedule.

(1) For marking documents which are subject to the General Declassification Schedule, the following stamp shall be used:

(TOP SECRET, SECRET OR CONFIDENTIAL) CLASSIFIED

BY _____

SUBJECT TO GENERAL DECLASSIFICATION SCHEDULE OF
EXECUTIVE ORDER 11652 AUTOMATICALLY DOWNGRADED
AT TWO YEAR INTERVALS AND DECLASSIFIED ON DEC. 31
(insert year)

(2) For marking documents which are to be automatically declassified on a given event or date earlier than the General Declassification Schedule the following stamp shall be used:

(TOP SECRET, SECRET OR CONFIDENTIAL) CLASSIFIED

BY _____

AUTOMATICALLY DECLASSIFIED ON (effective date or event)

(3) For marking documents which are exempt from the General Declassification Schedule the following stamp shall be used:

(TOP SECRET, SECRET OR CONFIDENTIAL) CLASSIFIED

BY _____

EXEMPT FROM GENERAL DECLASSIFICATION SCHEDULE OF
EXECUTIVE ORDER 11652 EXEMPTION CATEGORY (§ 5B (1),

(2), (3), or (4)) AUTOMATICALLY DECLASSIFIED ON (effective
date or event, if any)

Should the classifier inadvertently fail to mark a document with one of the foregoing stamps the document shall be deemed to be subject to the

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General Declassification Schedule. The person who signs or finally approves a document or other material containing classified information shall be deemed to be the classifier. If the classifier is other than such person he shall be identified on the stamp as indicated.

The "Restricted Data" and "Formerly Restricted Data" stamps (H. below) are, in themselves, evidence of exemption from the General Declassification Schedule.

B. *Overall and Page Marking of Documents.* The overall classification of a document, whether or not permanently bound, or any copy or reproduction thereof, shall be conspicuously marked or stamped at the top and bottom of the outside of the front cover (if any), on the title page (if any), on the first page, on the back page and on the outside of the back cover (if any). To the extent practicable each interior page of a document which is not permanently bound shall be conspicuously marked or stamped at the top and bottom according to its own content, including the designation "Unclassified" when appropriate.

C. *Paragraph Marking.* Whenever a classified document contains either more than one security classification category or unclassified information, each section, part or paragraph should be marked to the extent practicable to show its classification category or that it is unclassified.

D. *Material Other Than Documents.* If classified material cannot be marked, written notification of the information otherwise required in markings shall accompany such material.

E. *Transmittal Documents.* A transmittal document shall carry on it a prominent notation as to the highest classification of the information which is carried with it, and a legend showing the classification, if any, of the transmittal document standing alone.

F. *Wholly Unclassified Material Not Usually Marked.* Normally, unclassified material shall not be marked or stamped "Unclassified" unless the purpose of the marking is to indicate that a decision has been made not to classify it.

G. *Downgrading, Declassification and Upgrading Markings.* Whenever a change is made in the original classification or in the dates of downgrading or declassification of any classified information or material it shall be promptly and conspicuously marked to indicate the change, the authority for the action, the date of the action, and the identity of the

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person taking the action. In addition, all earlier classification markings shall be cancelled, if practicable, but in any event on the first page.

(1) *Limited Use of Posted Notice for Large Quantities of Material.* When the volume of information or material is such that prompt remarking of each classified item could not be accomplished without unduly interfering with operations, the custodian may attach downgrading, declassification or upgrading notices to the storage unit in lieu of the remarking otherwise required. Each notice shall indicate the change, the authority for the action, the date of the action, the identity of the person taking the action and the storage units to which it applies. When individual documents or other materials are withdrawn from such storage units they shall be promptly remarked in accordance with the change, or if the documents have been declassified, the old markings shall be cancelled.

(2) *Transfer of Stored Quantities Covered by Posted Notice.* When information or material subject to a posted downgrading, upgrading or declassification notice are withdrawn from one storage unit solely for transfer to another, or a storage unit containing such documents or other materials is transferred from one place to another, the transfer may be made without remarking if the notice is attached to or remains with each shipment.

H. *Additional Warning Notices.* In addition to the foregoing marking requirements, warning notices shall be prominently displayed on classified documents or materials as prescribed below. When display of these warning notices on the documents or other materials is not feasible, the warnings shall be included in the written notification of the assigned classification.

(1) *Restricted Data.* For classified information or material containing Restricted Data as defined in the Atomic Energy Act of 1954, as amended:

"RESTRICTED DATA"

This document contains Restricted Data as defined in the Atomic Energy Act of 1954. Its dissemination or disclosure to any unauthorized person is prohibited.

(2) *Formerly Restricted Data.* For classified information or material containing solely Formerly Restricted Data, as defined in Section 142.d., Atomic Energy Act of 1954, as amended:

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"FORMERLY RESTRICTED DATA"

Unauthorized disclosure subject to Administrative and Criminal Sanctions. Handle as Restricted Data in Foreign Dissemination. Section 1-4.1.b., Atomic Energy Act, 1954.

(3) *Information Other Than Restricted Data or Formerly Restricted Data.* For classified information or material furnished to persons outside the Executive Branch of Government other than as described in (1) and (2) above:

"NATIONAL SECURITY INFORMATION"

Unauthorized Disclosure Subject to Criminal Sanctions.

(4) *Sensitive Intelligence Information.* For classified information or material relating to sensitive intelligence sources and methods, the following warning notice shall be used, in addition to and in conjunction with those prescribed in (1), (2), or (3), above, as appropriate:

"WARNING NOTICE--SENSITIVE INTELLIGENCE SOURCES
AND METHODS INVOLVED"

V PROTECTION AND TRANSMISSION OF CLASSIFIED INFORMATION

A. *General.* Classified information or material may be used, held, or stored only where there are facilities or under conditions adequate to prevent unauthorized persons from gaining access to it. Whenever such information or material is not under the personal supervision of an authorized person, the methods set forth in *Appendix A* hereto shall be used to protect it. Whenever such information or material is transmitted outside the originating Department the requirements of *Appendix B* hereto shall be observed.

B. *Loss or Possible Compromise.* Any person who has knowledge of the loss or possible compromise of classified information shall immediately report the circumstances to a designated official of his Department or organization. In turn, the originating Department and any other interested Department shall be notified about the loss or possible compromise in order that a damage assessment may be conducted. An immediate inquiry shall be initiated by the Department in which the loss or compromise occurred for the purpose of taking corrective measures and appropriate administrative, disciplinary, or legal action.

VI ACCESS AND ACCOUNTABILITY

A. *General Access Requirements.* Except as provided in B. and C.

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below, access to classified information shall be granted in accordance with the following:

(1) *Determination of Trustworthiness.* No person shall be given access to classified information or material unless a favorable determination has been made as to his trustworthiness. The determination of eligibility, referred to as a security clearance, shall be based on such investigations as the Department may require in accordance with the standards and criteria of E.O. 10450 and E.O. 10865 as appropriate.

(2) *Determination of Need-to-Know.* In addition to a security clearance, a person must have a need for access to the particular classified information or material sought in connection with the performance of his official duties or contractual obligations. The determination of that need shall be made by officials having responsibility for the classified information or material.

(3) *Administrative Withdrawal of Security Clearance.* Each Department shall make provision for administratively withdrawing the security clearance of any person who no longer requires access to classified information or material in connection with the performance of his official duties or contractual obligations. Likewise, when a person no longer needs access to a particular security classification category, the security clearance shall be adjusted to the classification category still required for the performance of his duties and obligations. In both instances, such action shall be without prejudice to the person's eligibility for a security clearance should the need again arise.

B. *Access by Historical Researchers.* Persons outside the Executive Branch engaged in historical research projects may be authorized access to classified information or material provided that the head of the originating Department determines that:

(1) The project and access sought conform to the requirements of Section 12 of the Order.

(2) The information or material requested is reasonably accessible and can be located and compiled with a reasonable amount of effort.

(3) The historical researcher agrees to safeguard the information or material in a manner consistent with the Order and Directives thereunder.

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(4) The historical researcher agrees to authorize a review of his notes and manuscript for the sole purpose of determining that no classified information or material is contained therein.

An authorization for access shall be valid for the period required but no longer than two years from the date of issuance unless renewed under regulations of the originating Department.

C. Access by Former Presidential Appointees. Persons who previously occupied policy making positions to which they were appointed by the President, other than those referred to in Section 11 of the Order, may be authorized access to classified information or material which they originated, reviewed, signed or received while in public office. Upon the request of any such former official, such information and material as he may identify shall be reviewed for declassification in accordance with the provisions of Section 5 of the Order.

D. Consent of Originating Department to Dissemination by Recipient. Except as otherwise provided by Section 102 of the National Security Act of 1947, 61 Stat. 495, 50 U.S.C. 403, classified information or material originating in one Department shall not be disseminated outside any other Department to which it has been made available without the consent of the originating Department.

E. Dissemination of Sensitive Intelligence Information. Information or material bearing the notation "WARNING NOTICE—SENSITIVE INTELLIGENCE SOURCES AND METHODS INVOLVED" shall not be disseminated in any manner outside authorized channels without the permission of the originating Department and an assessment by the senior intelligence official in the disseminating Department as to the potential risk to the national security and to the intelligence sources and methods involved.

F. Restraint on Special Access Requirements. The establishment of special rules limiting access to, distribution and protection of classified information and material under Section 9 of the Order requires the specific prior approval of the head of a Department or his designee.

G. Accountability Procedures. Each Department shall prescribe such accountability procedures as are necessary to control effectively the dissemination of classified information or material. Particularly stringent controls shall be placed on information and material classified Top Secret.

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(1) *Top Secret Control Officers.* Top Secret Control Officers shall be designated, as required, to receive, maintain current accountability records of, and dispatch Top Secret material.

(2) *Physical Inventory.* A physical inventory of all Top Secret material shall be made at least annually. As an exception, repositories storing large volumes of classified material, shall develop inventory lists or other finding aids.

(3) *Current Accountability.* Top Secret and Secret information and material shall be subject to such controls including current accountability records as the head of the Department may prescribe.

(4) *Restraint on Reproduction.* Documents or portions of documents containing Top Secret information shall not be reproduced without the consent of the originating office. All other classified material shall be reproduced sparingly and any stated prohibition against reproduction shall be strictly adhered to.

(5) *Restraint on Number of Copies.* The number of copies of documents containing classified information shall be kept to a minimum to decrease the risk of compromise and reduce storage costs.

VII DATA INDEX SYSTEM

Each Department originating classified information or material shall undertake to establish a data index system for Top Secret, Secret and Confidential information in selected categories approved by the Inter-agency Classification Review Committee as having sufficient historical or other value appropriate for preservation. The index system shall contain the following data for each document indexed: (a) Identity of classifier, (b) Department of origin, (c) Addressees, (d) Date of classification, (e) Subject/Area, (f) Classification category and whether subject to or exempt from the General Declassification Schedule, (g) If exempt, which exemption category is applicable, (h) Date or event set for declassification, and (i) File designation. Information and material shall be indexed into the system at the earliest practicable date during the course of the calendar year in which it is produced and classified, or in any event no later than March 31st of the succeeding year. Each Department shall undertake to establish such a data index system no later than July 1, 1973, which shall index the selected categories of information and material produced and classified after December 31, 1972.

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VIII COMBAT OPERATIONS

The provisions of the Order and this Directive with regard to dissemination, transmission, or safekeeping of classified information or material may be so modified in connection with combat or combat-related operations as the Secretary of Defense may by regulations prescribe.

IX INTERAGENCY CLASSIFICATION REVIEW COMMITTEE

A. *Composition of Interagency Committee.* In accordance with Section 7 of the Order, an Interagency Classification Review Committee is established to assist the National Security Council in monitoring implementation of the Order. Its membership is comprised of senior representatives of the Departments of State, Defense, and Justice, the Atomic Energy Commission, the Central Intelligence Agency, the National Security Council staff, and a Chairman designated by the President.

B. *Meetings and Staff.* The Interagency Committee shall meet regularly, but no less frequently than on a monthly basis, and take such actions as are deemed necessary to insure uniform compliance with the Order and this Directive. The Chairman is authorized to appoint an Executive Director, and to maintain a permanent administrative staff.

C. *Interagency Committee's Functions.* The Interagency Committee shall carry out the duties assigned it by Section 7(A) of the Order. It shall place particular emphasis on overseeing compliance with and implementation of the Order and programs established thereunder by each Department. It shall seek to develop means to (a) prevent overclassification, (b) ensure prompt declassification in accord with the provision of the Order, (c) facilitate access to declassified material and (d) eliminate unauthorized disclosure of classified information.

D. *Classification Complaints.* Under such procedures as the Interagency Committee may prescribe, it shall consider and take action on complaints from persons within or without the government with respect to the general administration of the Order including appeals from denials by Departmental Committees or the Archivist of declassification requests.

X DEPARTMENTAL IMPLEMENTATION AND ENFORCEMENT

A. *Action Programs.* Those Departments listed in Section 2 (A) and (B) of the Order shall insure that adequate personnel and funding are provided for the purpose of carrying out the Order and Directives thereunder.

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B. *Departmental Committee.* All suggestions and complaints, including those regarding overclassification, failure to declassify, or delay in declassifying not otherwise resolved, shall be referred to the Departmental Committee for resolution. In addition, the Departmental Committee shall review all appeals of requests for records under Section 522 of Title 5 U.S.C. (Freedom of Information Act) when the proposed denial is based on their continued classification under the Order.

C. *Regulations and Reports.* Each Department shall submit its proposed implementing regulations of the Order and Directives thereunder to the Chairman of the Interagency Classification Review Committee for approval by the Committee. Upon approval such regulations shall be published in the FEDERAL REGISTER to the extent they affect the general public. Each Department shall also submit to the said Chairman (1) copies of the record lists required under Part I.D. hereof by July 1, 1972 and thereafter quarterly, (2) quarterly reports of Departmental Committee actions on classification review requests, classification abuses and unauthorized disclosures, and (3) provide progress reports on information accumulated in the data index system established under Part VII hereof and such other reports as said Chairman may find necessary for the Interagency Classification Review Committee to carry out its responsibilities.

D. *Administrative Enforcement.* The Departmental Committees shall have responsibility for recommending to the head of the respective Departments appropriate administrative action to correct abuse or violation of any provision of the Order or Directives thereunder, including notifications by warning letter, formal reprimand, and to the extent permitted by law, suspension without pay and removal. Upon receipt of such a recommendation the head of the Department concerned shall act promptly and advise the Departmental Committee of his action.

Publication and Effective Date: This Directive shall be published in the FEDERAL REGISTER and become effective June 1, 1972.

HENRY A. KISSINGER,
Assistant to the President for
National Security Affairs.

MAY 17, 1972.

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APPENDIX A

PROTECTION OF CLASSIFIED INFORMATION

A. *Storage of Top Secret.* Top Secret information and material shall be stored in a safe or safe-type steel file container having a built in three-position dial-type combination lock, vault, or vault-type room, or other storage facility which meets the standards for Top Secret established under the provisions of (C) below, and which minimizes the possibility of unauthorized access to, or the physical theft of, such information or material.

B. *Storage of Secret or Confidential.* Secret and Confidential material may be stored in a manner authorized for Top Secret information and material, or in a container or vault which meets the standards for Secret or Confidential, as the case may be, established under the provisions of (C) below.

C. *Standards for Security Equipment.* The General Services Administration shall, in coordination with Departments originating classified information or material, establish and publish uniform standards, specifications and supply schedules for containers, vaults, alarm systems and associated security devices suitable for the storage and protection of all categories of classified information and material. Any Department may establish for use within such Department more stringent standards. Whenever new security equipment is procured, it shall be in conformance with the foregoing standards and specifications and shall, to the maximum extent practicable, be of the type designated on the Federal Supply Schedule, General Services Administration.

D. *Exception to Standards for Security Equipment.* As an exception to (C) above, Secret and Confidential material may also be stored in a steel filing cabinet having a built in, three-position, dial-type combination lock; or a steel filing cabinet equipped with a steel lock bar, provided it is secured by a GSA approved changeable combination padlock.

E. *Combinations.* Combinations to security equipment and devices shall be changed only by persons having appropriate security clearance, and shall be changed whenever such equipment is placed in use, whenever a person knowing the combination is transferred from the office to which the equipment is assigned, whenever a combination has been subjected to possible compromise, and at least once every year. Knowledge of combinations shall be limited to the minimum number of persons necessary for operating purposes. Records of combinations shall be classified no lower than the highest category of classified information or material authorized for storage in the security equipment concerned.

F. *Telecommunications Conversations.* Classified information shall not be revealed in telecommunications conversations, except as may be authorized under Appendix B with respect to the transmission of classified information over approved communications circuits or systems.

G. *Responsibilities of Custodians.* Custodians of classified material shall be responsible for providing protection and accountability for such material at all times and particularly for locking classified material in approved security equipment whenever it is not in use or under direct supervision of authorized persons. Custodians shall follow procedures which insure that unauthorized persons do not gain access to classified information or material by sight or sound, and classified information shall not be discussed with or in the presence of unauthorized persons.

APPENDIX B

TRANSMISSION OF CLASSIFIED INFORMATION

A. *Preparation and Receipting.* Classified information and material shall be enclosed in opaque inner and outer covers before transmitting. The inner cover shall be a sealed wrapper or envelope plainly marked with the assigned classification and

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address. The outer cover shall be sealed and addressed with no indication of the classification of its contents. A receipt shall be attached to or enclosed in the inner cover, except that Confidential material shall require a receipt only if the sender deems it necessary. The receipt shall identify the sender, addressee, and the document, but shall contain no classified information. It shall be signed by the recipient and returned to the sender.

B. Transmission of Top Secret. The transmission of Top Secret information and material shall be effected preferably by oral discussions in person between the officials concerned. Otherwise the transmission of Top Secret information and material shall be by specifically designated personnel, by State Department diplomatic pouch, by a messenger-courier system especially created for that purpose, over authorized communications circuits in encrypted form or by other means authorized by the National Security Council; except that in the case of information transmitted by the Federal Bureau of Investigation, such means of transmission may be used as are approved by the Director, Federal Bureau of Investigation, unless express reservation to the contrary is made in exceptional cases by the originating Department.

C. Transmission of Secret. The transmission of Secret material shall be effected in the following manner.

(1) *The Fifty States, District of Columbia, Puerto Rico.* Secret information and material may be transmitted within and between the forty-eight contiguous states and District of Columbia, or wholly within the State of Hawaii, the State of Alaska, or the Commonwealth of Puerto Rico by one of the means authorized for Top Secret information and material, the United States Postal Service registered mail and protective services provided by the United States air or surface commercial carriers under such conditions as may be prescribed by the head of the Department concerned.

(2) *Other Areas, Vessels, Military Postal Services, Aircraft.* Secret information and material may be transmitted from or to or within areas other than those specified in (1) above, by one of the means established for Top Secret information and material, captains or masters of vessels of United States registry under contract to a Department of the Executive Branch, United States registered mail through Army, Navy or Air Force Postal Service facilities provided that material does not at any time pass out of United States citizen control and does not pass through a foreign postal system, and commercial aircraft under charter to the United States and military or other government aircraft.

(3) *Canadian Government Installations.* Secret information and material may be transmitted between United States Government or Canadian Government installations, or both, in the forty-eight contiguous states, Alaska, the District of Columbia and Canada by United States and Canadian registered mail with registered mail receipt.

(4) *Special Cases.* Each Department may authorize the use of the United States Postal Service registered mail outside the forty-eight contiguous states, the District of Columbia, the State of Hawaii, the State of Alaska, and the Commonwealth of Puerto Rico if warranted by security conditions and essential operational requirements provided that the material does not at any time pass out of United States Government and United States citizen control and does not pass through a foreign postal system.

D. Transmittal of Confidential. Confidential information and material shall be transmitted within the forty-eight contiguous states and the District of Columbia, or wholly within Alaska, Hawaii, the Commonwealth of Puerto Rico, or a United States possession, by one of the means established for higher classifications, or by certified or first class mail. Outside these areas, Confidential information and material shall be transmitted in the same manner as authorized for higher classifications.

E. Alternative Transmission of Confidential. Each Department having authority to classify information or material as "Confidential" may issue regulations authorizing alternative or additional methods for the transmission of material classified "Confidential" outside of the Department. In the case of material originated by

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another agency, the method of transmission must be at least as secure as the transmission procedures imposed by the originator.

F. *Transmission Within a Department.* Department regulations governing the preparation and transmission of classified information within a Department shall ensure a degree of security equivalent to that prescribed above for transmission outside the Department.

MEMORANDUM OF JUNE 21, 1972

[Presidential Determination No. 72-17]

Presidential Determination—
Malaysia

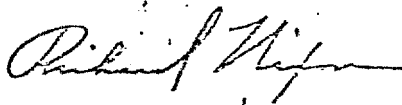
Memorandum for the Secretary of State

THE WHITE HOUSE,
Washington, June 21, 1972.

In accordance with the recommendation in the Department of State's memorandum of May 18, I hereby determine, pursuant to Section 4 of the Foreign Military Sales Act, as amended, that the extension of credit to the Government of Malaysia, in connection with the sale of F-5 military aircraft, is important to the national security of the United States.

You are hereby requested on my behalf to report this determination to the Congress as required by law.

This determination shall be published in the FEDERAL REGISTER.



Approved For Release 2004/10/27 : CIA-RDP78M02660R000200040048-1

UNCLASSIFIED

DCID No. 1/7

DIRECTOR OF CENTRAL INTELLIGENCE DIRECTIVE NO. 1/7¹ CONTROL OF DISSEMINATION OF FOREIGN INTELLIGENCE

(Effective 5 October 1975)

Pursuant to provisions of Subsection 102(d) of the National Security Act of 1947, as amended, and other authorities vested in the Director of Central Intelligence by the National Security Council, certain controls on dissemination of foreign intelligence and related material² (hereafter referred to as foreign intelligence) are hereby established and promulgated.

1. Purpose

This directive establishes certain common controls and procedures for the use and dissemination of foreign intelligence to ensure that, while facilitating the interchange of information for intelligence purposes, there will be adequate protection of foreign intelligence sources and methods. This directive restates applicable portions of National Security Council Directive of 17 May 1972 implementing Executive Order 11652, and prescribes additional controls applicable to the U. S. foreign intelligence mission.

2. Applicability

The controls and procedures set forth in this Directive shall be uniformly applied by all member departments and agencies of the intelligence community in the handling of all materials containing foreign intelligence originated by the Central Intelligence Agency or by the intelligence components of other USIB departments or agencies.

3. National Security Council Directive

a. National Security Council Directive of 17 May 1972 implementing Executive Order 11652 stipulates that, except as otherwise provided by Section 102 of the National Security Act of 1947, classified information or material originating in one department shall not be disseminated outside any other department to which it has been made available without the consent of the originating department. This restriction on dissemination is commonly described as the "third agency rule."

b. The NSC Directive stipulates that the dissemination of classified information, including intelligence and intelligence information, orally, in writing or by any other means, shall be limited to those persons whose official duties or contractual obligations require knowledge or possession thereof. This is commonly referred to as the "need-to-know" principle.

¹ Supersedes DCID 1/7, effective 5 October 1970.

² For purposes of this directive, "related material" includes: information describing U. S. foreign intelligence sources and methods, equipment and methodology unique to the acquisition or exploitation of foreign intelligence, foreign military hardware obtained for exploitation, and photography or recordings resulting from U. S. foreign intelligence collection efforts.

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c. The NSC Directive also states that documents or portions of documents containing TOP SECRET information shall not be reproduced without the consent of the originating office. All other classified material shall be reproduced sparingly and any stated prohibition against reproduction shall be strictly adhered to.

d. The NSC Directive further requires that the marking, "WARNING NOTICE—SENSITIVE INTELLIGENCE SOURCES AND METHODS INVOLVED," be prominently displayed on all information and materials relating to sensitive intelligence sources and methods; and, that materials so marked will not be disseminated in any manner outside authorized channels without the permission of the originating department and an assessment by the senior intelligence official in the disseminating department as to the potential risk to the national security and to the intelligence sources and methods involved.³ For special purposes, primarily bibliographic notation, communications, or automatic data processing, this marking may be abbreviated WNINTEL.

4. Advance authorization

a. To facilitate the dissemination and different uses made of classified foreign intelligence within and among USIB departments and agencies, to assure the timely provision of intelligence to consumers and to handle the volume of such materials in a practical way, it is necessary to provide controlled relief to the "third agency rule" within the intelligence community in addition to that provided by Section 102 of the National Security Act of 1947. Accordingly, USIB departments and agencies have been given advance authorization to use each other's classified foreign intelligence in their respective intelligence documents, publications or other information media, and to disseminate their products to third agencies or foreign governments,⁴ subject to limitations and procedures prescribed in this Directive.

b. Classified foreign intelligence documents, even though they bear no control markings, will not be released in their original form to third agencies or foreign governments without permission of the originator. Information contained in classified foreign intelligence documents of another department or agency may be extracted or paraphrased and used by the recipient USIB Agency in classified foreign intelligence reports and released to third agencies, except as specifically restricted by control markings prescribed in this directive. For purposes of this authorization, "WARNING NOTICE—SENSITIVE INTELLIGENCE SOURCES AND METHODS INVOLVED" shall not be considered a restrictive marking.

³ Unless otherwise specified by the Director of Central Intelligence in consultation with USIB or as agreed to between originating and recipient agencies, authorized channels include the intelligence components of USIB departments and agencies and within each department and agency (including their contractors and consultants) as determined by the recipient senior intelligence official.

⁴ Excepting RESTRICTED DATA and formerly RESTRICTED DATA, which is prohibited from foreign dissemination under Sections 123 and 144 of Public Law 585, Atomic Energy Act of 1946, as amended.

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c. Information contained in classified foreign intelligence documents of another department or agency not bearing any control markings may be extracted or paraphrased and used by the recipient USIB Agency in reports disseminated to foreign governments provided.⁴

(1) No reference is made to the source documents upon which the released product is based.

(2) The source and manner of acquisition of the information are not revealed.

(3) Foreign release is made through established foreign disclosure channels and procedures.

d. Any department or agency disseminating foreign intelligence beyond the departments and agencies of the USIB shall be responsible for ensuring that recipient departments and agencies understand and agree to observe the restrictions prescribed by this directive and maintain adequate safeguards.

e. No release of a classified foreign intelligence document, whether or not bearing a control marking, shall be made to foreign nationals and immigrant aliens, including U. S. Government employed, utilized or integrated foreign nationals and immigrant aliens, without the permission of the originating agency.

5. Additional authorized control markings

a. In addition to the WARNING NOTICE prescribed by NSC Directive any of the following additional markings may be used on foreign intelligence whenever, in the opinion of the originating department or agency, extraordinary circumstances related to the intelligence source or methods require more specific dissemination restrictions. Use of these markings shall be limited to foreign intelligence, the disclosure of which, could: compromise the status of collaborating foreign governments or officials or otherwise seriously damage U. S. relations with foreign governments; subject U. S. citizens or others to the possibility of personal danger or incarceration; seriously impair the continuing cooperation of private individuals providing foreign intelligence; seriously affect the continuing viability of vital technical collection programs; or, result in the possible compromise or loss of some unique foreign intelligence source or method. These control markings will be individually assigned at the time of preparation of the completed document and used in conjunction with classification and other markings required by Executive Order 11652 and the implementing NSC directive and, unless otherwise indicated in 6a below, carried forward to any new format in which that information is incorporated, including oral and visual presentations.

(1) "DISSEMINATION AND EXTRACTION OF INFORMATION CONTROLLED BY ORIGINATOR"

This marking shall be used when unique source sensitivity factors, known to the originator, require strict compliance with third agency rule procedures, in addition to a continuing knowledge and supervision on the part of the originator as to the extent to which the original document and information

contained therein is disseminated. Documents and information bearing this marking will not be disseminated beyond the Headquarters elements of the recipient organizations and the information contained therein shall not be extracted and incorporated into other reports without the permission of and under conditions prescribed by the originator. (For special purposes, primarily bibliographic notation, communications and automatic data processing, this marking may be abbreviated ORCON.)

(2) "USIB DEPARTMENTS ONLY"

Foreign intelligence so marked will not be disseminated to departments and agencies not represented on the U.S. Intelligence Board without the permission of the originating agency. Within each USIB department and agency dissemination shall be as determined by the recipient senior intelligence official, and may include department or agency contractors and consultants unless specifically prohibited by addition of the "NOT RELEASABLE TO CONTRACTORS OR CONTRACTOR/CONSULTANTS" marking described below. (For special purposes, primarily bibliographic notation, communications and automatic data processing, this marking may be abbreviated USIBONLY.)

(3) "NOT RELEASABLE TO CONTRACTORS OR CONTRACTOR/CONSULTANTS"

Foreign intelligence so marked shall not be disseminated to contractors or contractor consultants without the permission of the originating agency. Examples of when this marking may be used include National Intelligence Estimates and similar national intelligence reports, and other foreign intelligence, which, if disseminated to consultants or contractors, might seriously impair the continuing cooperation of contributing private individuals. This restriction shall not apply to those consultants hired under Civil Service Commission procedures, or comparable procedures derived from authorities vested in heads of departments and agencies by law, and who are normally considered an extension of the office by which they are employed. In applying this control marking, originators will give consideration to the need of USIB member Departments and Agencies to use contractor consultants and contractors to perform services which cannot be adequately performed by U. S. Government personnel. (For special purposes, primarily bibliographic notation, communications, or automatic data processing, this marking may be abbreviated NOCONTRACT.)

(4) "CAUTION—PROPRIETARY INFORMATION INVOLVED"

This marking will be used in conjunction with foreign intelligence obtained from various sources in the U.S. private business sector, and as the information may bear upon proprietary interests of the source, or may otherwise be used to the source's detriment. Recipients of reports bearing this marking shall take every reasonable precaution to ensure that the information is not used to the detriment of the source. This marking may be used in conjunction with the "NOT RELEASABLE TO CONTRACTORS OR CONSULTANTS" marking described above. (For special purposes, primarily bibliographic

notation, communication and automatic data processing, this marking may be abbreviated PROPIN.)

(5) "NOT RELEASABLE TO FOREIGN NATIONALS"

Foreign Intelligence so marked involves special considerations requiring that it not be released in any form to foreign governments, foreign nationals or non-U.S. citizens without the permission of the originating agency. Examples of when this control marking may be used include: the possible compromise of the status of relations with collaborating foreign governments, or officials; or jeopardizing the continuing viability of vital technical collection programs. (For special purposes, primarily bibliographic notation, communications, or automatic data processing, this marking may be abbreviated NOFORN.) When the originating agency predetermines that information can be released to a specified foreign government(s) the following marking may be used: "THIS INFORMATION HAS BEEN AUTHORIZED FOR RELEASE TO (specified country(s))." (For special purposes, primarily bibliographic notation, communications, or automatic data processing, this marking may be abbreviated "REL (specified countries).")

6. Procedures governing use of control markings

a. Any recipient desiring to use foreign intelligence in a manner contrary to the restrictions established by the control markings set forth above shall obtain the permission of the originating agency. Such permission applies only to the specific purpose agreed to by the originator and does not automatically apply to all recipients of the information as originally disseminated unless the originating agency removes the control markings for the benefit of the recipients. In those cases where dissemination outside the recipient agency is desired utilizing lesser or no control markings, the recipient agency should prepare a sanitized version which may be released with the originator's permission.

b. Control markings authorized in paragraphs 3d and 5 above, shall be displayed prominently on documents, incorporated in the text of communication messages, and associated with data stored or processed in automatic data processing systems. Unless the entire document justifies the protection of the control marking(s), each portion requiring the marking(s) shall, to the extent feasible, be marked with the appropriate marking abbreviation authorized by this directive.

c. The standardized restrictions and control markings set forth in this directive are to be employed uniformly by all departments and agencies in the intelligence community, thereby assuring like control and restrictions on the use of foreign intelligence disseminated within the departments and agencies represented on the USIB.

d. The substance of this directive shall be published in appropriate regulatory or notice media of each agency or department, together with appropriate procedures permitting rapid interagency consultation concerning utilization of intelligence and information. For this purpose, each USIB agency will designate a primary referent.

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7. Report of unauthorized disclosure

Violations of the foregoing restrictions and control markings that result in unauthorized disclosure by one agency of the foreign intelligence of another shall be reported to the Director of Central Intelligence through the USIB Security Committee.

8. Prior restrictions and markings

Questions with respect to the current application of control markings authorized by earlier directives on the dissemination and control of intelligence and utilized on documents issued prior to the date of this directive should be referred to the originating agency. These markings are: WARNING NOTICE—SENSITIVE SOURCES AND METHODS INVOLVED, CONTROLLED DISSEM, NSC PARTICIPATING AGENCIES ONLY, INTEL COMPONENTS ONLY, LIMITED, CONTINUED CONTROL, NO DISSEM ABROAD, BACKGROUND USE ONLY and NO FOREIGN DISSEM.

W. E. Colby

Director of Central Intelligence

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